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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

In re J.D., a Person Coming Under the Juvenile  
Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

J.D.,

Defendant and Appellant.

F077108

(Super. Ct. No. 514111)

**OPINION**

**THE COURT\***

APPEAL from an order of the Superior Court of Stanislaus County. Ruben A. Villalobos, Judge.

Candice L. Christensen, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Catherine Chatman and Michael Dolida, Deputy Attorneys General, for Plaintiff and Respondent.

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\* Before Peña, Acting P.J., Snauffer, J. and DeSantos, J.

## **INTRODUCTION**

Appellant J.D. (the minor) contends the juvenile court abused its discretion by committing him to juvenile hall until his 18th birthday. We affirm.

## **FACTUAL AND PROCEDURAL SUMMARY**

The Stanislaus County District Attorney's Office filed a second amended petition pursuant to Welfare and Institutions Code<sup>1</sup> section 602 on February 17, 2016, alleging six counts against the minor, two felonies and four misdemeanors: criminal threats (Pen. Code, § 422; count 1); receiving stolen property (Pen. Code, § 496, subd. (a); count 2); two counts of battery (Pen. Code, § 242; counts 3 and 4); and two counts of vandalism by damaging property (Pen. Code, § 594, subd. (a)(2); counts 5 and 6). That same day, the minor admitted the charges in counts 2 through 5 as misdemeanors; counts 1 and 6 were dismissed.

The minor was adjudged a ward of the court, placed on formal probation, and committed to juvenile hall for 90 days. Upon completion of his time in juvenile hall, he was to be released to the custody of his parents and placed on electronic monitoring for 30 days. Conditions of probation included obeying all laws, attending school, maintaining an 8:00 p.m. curfew, abstaining from drugs and alcohol, and attending counseling. The minor was subject to search conditions.

The juvenile court set a review date, noting that it did not always do so, and commented, "I foresee this could be a possible placement case."

On April 15, 2016, the probation department filed a section 777 notice of violation of probation. The notice alleged the minor was in violation of his probation by failing to report to his probation officer when directed, failing to adhere to the court ordered curfew, failing to attend school regularly, shoplifting, and using marijuana.

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<sup>1</sup> References to code sections are to the Welfare and Institutions Code unless otherwise specified.

The minor admitted the violations on April 25, 2016, and the juvenile court ordered him to serve another 120 days in juvenile hall, followed by another 30 days of electronic monitoring.

On June 15, 2016, a new section 602 petition was filed alleging the minor committed two felonies, auto theft and escape from jail, and a misdemeanor offense of driving without a license.

At a hearing on June 27, 2016, the minor admitted to felony auto theft in exchange for dismissal of the other counts. At the July 12, 2016 disposition hearing, the People noted the minor's continued resistance to the rules of probation, including cutting off his electronic monitor, and failure to follow rules established by his parents. The People asked for a "very serious consequence to try to get his attention."

The juvenile court noted the minor was now 16 years old. The juvenile court continued the minor as a ward of the court on probation. Numerous terms and conditions of probation were imposed, including that the minor spend 230 days in juvenile hall, with the last 30 days on electronic monitoring at the discretion of probation.

On December 23, 2016, another section 602 petition was filed against the minor alleging he committed two felonies, first degree burglary and grand theft. At a hearing on January 26, 2017, the minor admitted the first degree burglary charge in exchange for dismissal of the grand theft charge.

At the February 10, 2017 disposition hearing, the juvenile court noted the preference to "impose the least restrictive condition of confinement when appropriate, with the understanding being that the best interest of the child is served by graduated discipline, graduated punishment, graduated consequences." The juvenile court then opined that time in juvenile hall would not be beneficial to the minor and it appeared "that placement is appropriate."

The juvenile court heard argument from the parties and comments from the minor's father as to an appropriate disposition. The juvenile court then opined that the

minor “has been tried on probation, and through no fault of probation, has been unsuccessful on probation.” The juvenile court found that “placement is the appropriate confinement setting for [the minor] at this point.”

On March 3, 2017, the minor was placed at Courage to Change in Exeter. On March 7, 2017, he absconded from the facility and was arrested three days later for shoplifting. At a hearing on March 15, 2017, the minor admitted he violated his probation by absconding from Courage to Change. The juvenile court ordered the minor detained at juvenile hall pending a disposition hearing.

On April 11, 2017, the minor was released from juvenile hall to the custody of a staff member from Courage to Change. The same day, the minor absconded from the custody of the staff member while they were in the parking lot of the probation department.

At a probation violation hearing on April 12, 2017, the juvenile court reminded the minor of its earlier comments:

“What I can tell you is that by failing in placement and failing in placement again, you are limiting my options. And, ultimately speaking, when the set of options gets narrower, there’s only one thing left at the end, and that’s a lengthy period of incarceration in juvenile hall. Do you understand what I’m saying?”

The juvenile court then reminded the minor that he indicated he understood and yet, “here we are.”

The minor admitted the probation violation. The juvenile court noted that probation recommended a term of 400 days in juvenile hall and the juvenile court was “inclined to follow the recommendation.” The juvenile court also noted that it was not “concerned about his behavior in the hall, because I think he can probably do well in the hall.” The minor was committed to juvenile hall for 400 days.

On February 8, 2018, probation violations were alleged. Specifically, it was alleged that the minor violated probation by failing to obey his parents; he came home

after curfew; he was verbally abusive to his mother; and he threatened physical harm to his father. The parents were in fear for their own safety. The minor also broke into his parent's bedroom, tested positive for marijuana, and was wearing gang colors. On February 11, 2018, the minor was arrested and taken to juvenile hall. On February 16, 2018, the minor admitted each of the probation violations.

At the February 23, 2018 disposition hearing, the probation department noted that the minor had exhausted "all the opportunities that probation can provide as far as rehabilitation goes" and that the minor "shows no effort to comply with probation." The recommendation was to place the minor in juvenile hall.

It was noted that the minor's parents felt they could not control the minor. The minor had acknowledged that putting him on an electronic monitor "wouldn't work."

The minor's counsel acknowledged that the minor felt "comfortable in custody" and "feels safe in the hall, and it allows him to make the right choices because it's a contained environment." Counsel also argued, however, that the minor should not be housed in juvenile hall until his 18th birthday; she opined, "he needs some transition period."

The juvenile court stated that the minor going home with his parents was not "a good situation for [the minor] or his parents." The juvenile court opined that the minor would not stay at home and would be "back in here." The juvenile court stated that juvenile hall is a "last-case resort ... when there are no other options, and, ... that's where we are."

The juvenile court committed the minor to juvenile hall until his 18th birthday, less than six months away, with juvenile hall and the probation department having discretion to release the minor before that date "if they determine that there's a good situation for [the minor] to be released to." The juvenile court concluded, "I, frankly, don't feel I have any other options."

A timely notice of appeal from the disposition order was filed on February 26, 2018.

### **DISCUSSION**

The minor contends the juvenile court abused its discretion in committing him to juvenile hall until his 18th birthday because the placement was not aimed at rehabilitation and was not in his best interests. We disagree.

Section 202, subdivision (b), provides that minors “under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances.” The minor’s rehabilitation and public safety are both important considerations in a juvenile disposition. (*In re J.W.* (2015) 236 Cal.App.4th 663, 667–668.)

“The purpose of juvenile delinquency laws is twofold: (1) to serve the ‘best interests’ of the delinquent ward by providing care, treatment, and guidance to rehabilitate the ward and ‘enable him or her to be a law-abiding and productive member of his or her family and the community,’ and (2) to ‘provide for the protection and safety of the public ....’ (§ 202, subds. (a), (b) & (d); [citations].)” (*In re Charles G.* (2004) 115 Cal.App.4th 608, 614–615.) “In determining the judgment and order to be made in any case in which the minor is found to be a person described in Section 602, the court shall consider, in addition to other relevant and material evidence, (1) the age of the minor, (2) the circumstances and gravity of the offense committed by the minor, and (3) the minor’s previous delinquent history.” (§ 725.5.)

The juvenile system is designed to give juvenile courts maximum flexibility in fashioning a disposition. (*In re Greg F.* (2012) 55 Cal.4th 393, 411–412.) A juvenile court’s commitment decision will be reversed only on a showing of abuse of discretion.

“ ‘ “A reviewing court must indulge in all reasonable inferences to support the findings of the juvenile court ....” ’ ” (*In re Travis J.* (2013) 222 Cal.App.4th 187, 199.)

A commitment is not an abuse of discretion where the record demonstrates “both a probable benefit to the minor ... and the inappropriateness or ineffectiveness of less restrictive alternatives.” (*In re Angela M.* (2003) 111 Cal.App.4th 1392, 1396.)

In this case, less restrictive placements were tried repeatedly and failed to effect any change for the better in the minor’s behavior. In-home placement, electronic monitoring, group home placement, and probation all failed to reform the minor. The next viable placement was juvenile hall.

No fewer than three section 602 petitions were filed against the minor, in addition to multiple probation violations. The minor’s offenses went from misdemeanors to felonies. The minor continued to be involved with gangs and drugs. The restrictive environment at juvenile hall would provide for the protection and safety of the public and afford an opportunity for the minor to reform his behavior, which no less restrictive alternative had accomplished. (*In re J.W., supra*, 236 Cal.App.4th at pp. 667–668.)

The juvenile court did not abuse its discretion in committing the minor to juvenile hall until his 18th birthday. (*In re Angela M., supra*, 111 Cal.App.4th at p. 1397.)

### **DISPOSITION**

The February 23, 2018, commitment order is affirmed.